

Notice of Allowability

Application No.

10/672,317

Examiner

David A. Saunders, PhD

Applicant(s)

COLLINS ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-50.
3. ☐ The drawings filed on ____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Monica McCormick Graham on 3/28/05.

The application has been amended as follows:

Amended claim 39 as follows:

39 (amended). A method for separating cells, said method comprising:

a) contacting a blood cell-containing sample with a composition, said composition comprising:

- i) dextran;
- ii) anti-glycophorin A antibody;
- iii) anti-CD15 antibody;
- iv) anti-CD9 antibody;
- v) anti-CD94 antibody; and
- vi) anti-CD161 antibody;

b) allowing said sample to partition into an agglutinate and a supernatant phase;
and

c) recovering said cells from either or both the agglutinate or supernatant phase.

In claim 50, line 3, after "composition" inserted --comprising avidin-coated particles--.

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The above amendments are for purposes of clarification. The inserted material in claim 39 is derived from specification page 2, line 14.

The following is an examiner's statement of reasons for allowance:

Claims 1-50 are allowable over the prior art of record. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pat. 6,117,985 shows separation of T-cells obtained in a supernatant phase above an agglutinate. See col. 18, line 17-col. 19, line 16 and Table 3 at col. 27. See also a disclosure of the use of dextran coated particles and of bifunctional antibodies that recognize the dextran at col. 21, line 45- col. 22, line 11.

Pat. 6,448,075 likewise shows separation of T-cells obtained in a supernatant phase above an agglutinate. See antibody cocktail compositions therefor disclosed at col. 14, lines 1-23; col. 17, lines 1-49. See also Tables 5 and 6 at cols. 22-23.

US PGPUB 2003/0027233 has common inventors. This discloses all aspects of the instant invention but for the inclusion of anti-CD94 and anti-CD161 antibodies to the cell separating composition. The prior art of record provides no motivation to add these two antibodies to the composition disclosed in 2003/0027233.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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On form PTO-1449 reference AGG has been lined out; this reference is cited on form PTO-892. Likewise, reference AFF has been line out; this reference is cited on form PTO-892 as US PGPUB 2003/0027233.

Any inquiry concerning this communication from the examiner should be directed to David A. Saunders, PhD whose telephone number is 571-272-0849. The examiner can normally be reached on Mon.-Thu., 8:00 am-5:30 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Typed 3/28/05, DAS


DAVID SAUNDERS
PRIMARY EXAMINER
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